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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,725	01/25/2002	David C. Majercak	CRD-989	2104

27777 7590 05/11/2004  
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NEW BRUNSWICK, NJ 08933-7003

EXAMINER
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NGUYEN, VI X

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/056,725	MAJERCAK ET AL.	
	Examiner	Art Unit	
	Victor X Nguyen	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5, 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/2003</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I, claims 1-4 and 6-8 of Species 1, Figs. 2-3 in 3/22/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated **as an election without traverse** (MPEP § 818.03(a)). It would appear that claims 1-4 and 6-8 related to Species II of Figures 2 and 4 which illustrates a stent with a Z-connector in the expanded state or in the unexpanded state. Therefore, non-elected claims 5 and 9-10 are withdrawn from further consideration.

The requirement is deemed proper and is therefore made **Final**.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States,

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanesaka et al. (U.S. 5,911,754).

Kanesaka et al show in fig. 1, an expanded stent (1) with effective struts and connector patterns having all the limitations of claims 1 and 6-8, including: a multiplicity of strut members (4); Each set of strut members is separated from the other and formed a closed ring-like cylindrical section of the stent (see col. 3, lines 24-30). Each strut element consists of one curved end strut that is joined at a junction point to one diagonal strut. Each set of flexible links

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(fig. 3, item 12) connects two of the multiplicity of sets of strut member. Each of flexible links is a single undulating structure that extends generally in longitudinal direction that is parallel to the stent's longitudinal axis. At least some of the individual flexible links is having a shape of a letter Z (figs. 3-4, item 5). Each of the links has at least two curved segments; and wherein each of the curved element of the z links lie in a circumferential direction (fig. 1).

Regarding claim 2, Kanesaka et al show each flexible link (12) has two ends that is attached to the multiplicity of strut elements (fig. 3, items 4a, 4b).

Regarding claim 3, Kanesaka et al show there are adjacent sets of strut members which are in phase with one another (see attached labeled in fig. 1), i.e, means T1 can be considered as peaks in one ring that faces along narrow depression of Q1 in the adjacent ring.

Regarding claim 4, Kanesaka et al show there are adjacent sets of strut members which are out of phase with one another (see attached labeled in fig. 1), i.e, means that peak T1 in one ring faces peaks T2 in the adjacent ring.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,190,403 to Fischell

U.S. Pat. No. 6,409,761 to Jang

U.S. Pat. No. 6,312,459 to Huang

U.S. Pat. No. 5,873,906 to Lau

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898.

The examiner can normally be reached on M-F (8-4.30 P.M).

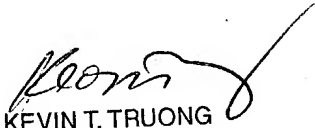
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen  
Examiner  
Art Unit 3731

Vn vp  
May 3, 2004

  
KEVIN T. TRUONG  
PRIMARY EXAMINER

5/3/04